

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MERLVIN L. PERKINS,

Plaintiff,

vs.

JUDGE MICHAEL T. HALL, et al.,

Defendants.

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Case No. 3:08cv360

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #7) IN THEIR
ENTIRETY AND OVERRULING PLAINTIFF'S OBJECTIONS (DOCS. #8
AND #9 THERETO); CAPTIONED CAUSE DISMISSED, WITHOUT
PREJUDICE, FOR FAILURE TO STATE CLAIM UPON WHICH RELIEF CAN
BE GRANTED, AS BARRED BY PREVAILING CASE LAW; JUDGMENT TO
ENTER ACCORDINGLY; ANTICIPATED MOTION FOR LEAVE TO APPEAL
IN FORMA PAUPERIS DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in her Report and Recommendations (Doc. #7) filed October 28, 2008, as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Report and Recommendations (Doc. #7) are adopted in their entirety. Plaintiff's Objections to said judicial filing (Docs. #8 and #9) are overruled. The captioned cause fails to state a claim upon which relief can be granted, as same is barred by the applicable Supreme Court authority in *Heck v.*

Humphrey, 512 U.S. 477 (1994).

Because any appeal of this Court's opinion rendered herein would be objectively frivolous, leave to appear *in forma pauperis* is denied.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

November 12, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Merlvin L. Perkins, Pro Se Plaintiff